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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,126	11/14/2005	Eric L. Goldner	STADM-70699	8916
24201	7590	07/17/2006	EXAMINER	
FULWIDER PATTON 6060 CENTER DRIVE 10TH FLOOR LOS ANGELES, CA 90045			WONG, ERIC K	
			ART UNIT	PAPER NUMBER
			2883	

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/528,126	GOLDNER ET AL.	
	Examiner	Art Unit	
	Eric Wong	2883	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/18/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-19, 22, 24-27, 29-33 and 37-38 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent Number 6,211,964 to Luscombe et al (hereinafter Luscombe).

Luscombe discloses in figures 4A, 5A, and column 6, line 23 to column 8, line 17, a continuous, flexible cylindrical device for detecting acoustic signals comprising:

- A flexible core including an acoustic substrate (122);
- An optical fiber (120) wound around said substrate; and
- At least one periodic refractive index perturbation formed in the optical fiber (abstract).

As to claim 2, the acoustic substrate contains a plurality of voids (foam).

As to claim 3, the voids are formed by hollow microspheres (foam).

As to claim 4, the material is compliant.

As to claim 5, a hollow tube is disclosed (146).

As to claim 6, a strength member is disclosed (140).

As to claim 7, multiple strength members are disclosed surrounding an inner tube (160).

As to claims 8-10, multiple jackets are disclosed.

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As to claim 11, the materials are selected for having a dynamic property for limiting frequency response (column 7 line 1 – column 8, line 10).

As to claim 12, a hydrophone is disclosed (152).

As to claim 13, the fibers are wound around the hydrophone for noise elimination (column 8, lines 4-6).

As to claims 14-15, gratings are disclosed in the abstract.

As to claims 16-17 and 25-26, an acoustic tape is disclosed (128).

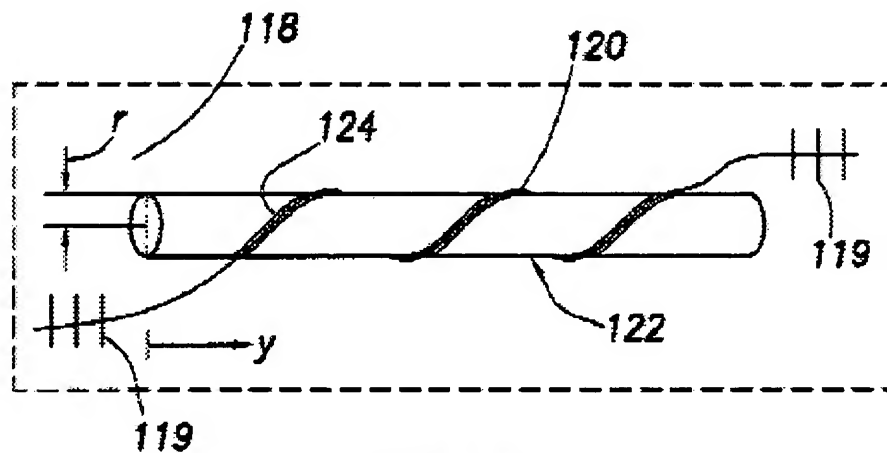
As to claims 18 and 27, Teflon is disclosed.

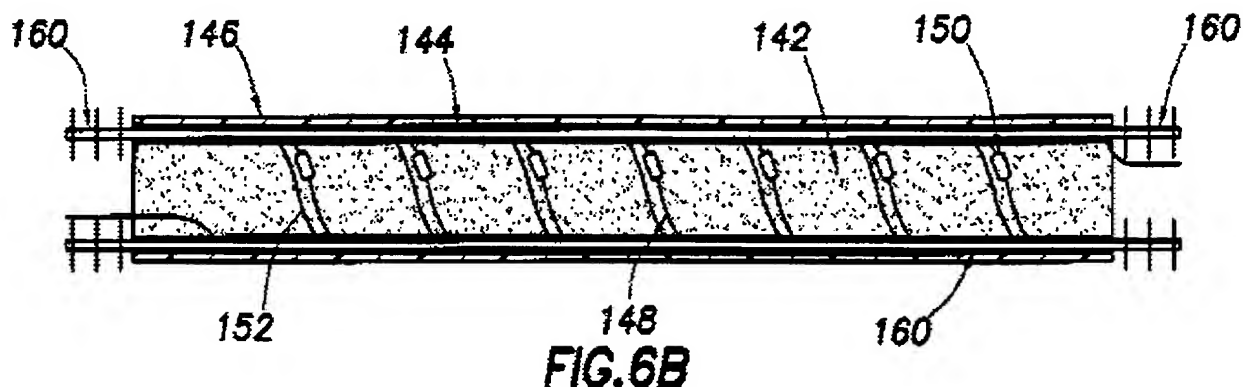
As to claim 19, a filler rod is disclosed.

As to claim 24, rubber filler materials are disclosed.

As to claim 29, outer elastic materials are disclosed.

As to claim 30, the voids are filled.

**FIG. 4A**



Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20-21, 23, 28, 34-36 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luscombe as applied to claims above.

Luscombe discloses the invention as claimed except for the specific disclosure of the brand (Trademarked), type of materials used and the specific size.

It is noted that Expancel, Norpar and Isopar are commonly available in the market and could be easily selected by one having ordinary skill in the art. It appears to the Examiner that applicant has not disclosed any criticality in the specific use of one material over the other. It is further noted that Luscombe does not limit the type of materials used. By merely selecting one material over the other is a general engineering practice to obtain the best preferred material for the intended use of the device. Examiner's contention of this obvious choice in design can be overcome if applicant establishes unexpected results by using one material over the other.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use said materials, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Wong whose telephone number is 571-272-2363. The examiner can normally be reached on Monday through Friday, 830AM - 430PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



EW



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